

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

JOSE PADILLA, et al.,)	
)	
Plaintiffs,)	Case No. 2:07-410-HFF-RSC
)	
v.)	
)	
DONALD H. RUMSFELD, et al.,)	
)	
Defendants.)	June 17, 2009

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs respectfully submit this notice to alert the Court to the recent order of the United States District Court for the Northern District of California in the related matter of *Padilla v. Yoo*, No. 08-00035 JSW, 2009 WL 1651273 (N.D. Cal, June 12, 2009), in which the court granted in part and denied in part Mr. Yoo's motion to dismiss.

This Court has previously instructed counsel to keep it apprised of developments in *Padilla v. Yoo*. Defendants here have advanced several of the same arguments for dismissal that Mr. Yoo raised in *Padilla v. Yoo*, including: (i) special factors counseling hesitation bar the *Bivens* remedy; (ii) plaintiffs have not adequately pleaded defendants' personal involvement in the constitutional torts alleged; (iii) defendants are entitled to qualified immunity because the constitutional violations alleged by plaintiffs were not clearly established; and (iv) defendants cannot be sued in their individual capacities under the Religious Freedom and Restoration Act.

In its decision, the Northern District of California rejected each of these arguments, holding that a *Bivens* remedy is available for the constitutional torts alleged, that the constitutional rights claimed by plaintiffs were clearly established, that officials

may be sued in their individual capacities under RFRA, and that, with the sole exception of the self-incrimination claim, plaintiffs' claims were adequately pleaded. A copy of the decision is attached.

Respectfully submitted,

S/ MICHAEL P. O'CONNELL

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